

Lucio Celli, pro se
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February 22, 2018

United States Court for the Eastern District

Elizabeth Combier,
Plaintiff,
vs.
Francesco Portelos et. al,
Defendants.

) Case No.: No. 17-cv-02239 (FB)(RLM)
)
) Affidavit for Fraud Upon the Court by
) Elizabeth Combier, Motion for Default
) Judgement on Crossclaims, Motion to Stay of
) Order to Seal until Discovery, Motion to
) Unseal Documents, Motion for Rule 41(b),
) Motion to Order Betsy to Be Truthful of Facts
) that the Court Could Read on its Own and
) Motion to Order Betsy to Comply with FRCP
for Service and Notice to All Parties.

FILED

2018 FEB 23 PM 9:40

CLERK
U.S. DISTRICT COURT
E.D.N.Y.
ASTORIA, N.J.

BEFORE ME, this date personally appeared the undersigned, who after being first duly sworn hereby state, as follows:

1. My name is Lucio Celli. I am over the age of 18 years and I have personal knowledge of the facts and matters below.
2. I served Plaintiff Elizabeth Combier (hereafter "Betsy") at¹:
315 East 65th, Apt. 4C
New York, New York 10065—
3. Betsy **promised** the court not to violate FRCP for service again—this is a lie—because she threw her complaint at Lucio's father and promised on October 3, 2017 that she would follow FRCP, **please see transcripts for Betsy's misconduct and evidence of**

¹ Betsy also receives email updates from the Court and Lucio does not.
[Affidavit for Fraud Upon the Court by Elizabeth Combier, Motion to Unseal Documents, Motion to Stay Order to Seal, Motion for Rule 41(b), Motion to Order Betsy to Be Truthful, of Facts that the Court Could Read on its Own and Motion to Order Betsy to Comply with FRCP for Service and Notice to All Parties.] - 1

her lies and bad faith in front of Your Honor. Lucio hopes Your Honor does not have to deal with people like Betsy daily, as people who promise to comply with Court's rules and then does not because it is SO disrespectful to the court and it is a TRUE sign of someone's character—in Lucio's view.

4. Your Honor admonished lying Betsy for her misconduct for service and instructed plaintiff to serve Lucio via "first-class postage," which is an official warning by the court and cunning Betsy lied to Your Honor because she ignored Your Honor's warning and violated FRCP again by depriving Lucio with notice of her motions.
5. In front of Your Honor because the court made us, Betsy and Lucio promised to serve each other via prepaid first-class postage with proof on October 3, 2017.²
6. **Please Take Notice**, Betsy did not keep her promise to Your Honor about servicing Lucio via first-class postage. Plaintiff lied to Your Honor about not engaging in misconduct of service again, and lied about service and opposition to her motion in Doc. No. 58, which Betsy should be sanctioned because it is related to October 3, 2017.
7. Betsy is in default because she did not answer Lucio's crossclaims pursuant to FRCP 12(a)(1)(B), which states: "A party must serve an answer to a counterclaim or crossclaim within 21 days after being served with the pleading that states the counterclaim or crossclaim."
8. Betsy admits to being served counterclaims by Lucio (**see Doc. No. 50**), so she knows the sealed information is central to Lucio's counterclaim and duress claims—Betsy tricked the Court and in the process Lucio was deprived due process
9. Lucio, in good faith, would start count for the 21 days to answer counterclaims on January 6, 2018 because Betsy said she received the counterclaim during that said weekend.
10. Betsy had until January 26, 2018 to serve Lucio with her motions and answer to the counterclaims, but she did not serve Lucio and did not do **as promised** to serve Lucio without misconduct—but Betsy lied to Your Honor and should be sanctioned.
11. Betsy waited, **to deprive Lucio of notice and of his defenses**, until February 8, 2018 to mail her motion and Lucio still does not have an answer to the crossclaim
12. The sealed information is **germane** to Lucio's defenses for ¶¶ 16, 17, 18, 19, 20, 21 and so on in Betsy's complaint!!³
13. The sealed information is **germane** to Lucio's defense to show duress caused by Betsy

² This was done to cut the cost of process server.

³ Made pursuant to FRCP 13(1)(a) because Lucio's defense of duress and claims for duress with CFAA arises out of the transaction and occurrence that is the subject matter of plaintiff's claims and pleadings

because she posted Lucio's HIV status on her blog, which is **the SAME blog** the plaintiff has a cause of action for C.F.A.A in the above-referenced matter. **The only way to show Betsy KNEW** that posting Lucio's HIV status caused Lucio duress is to present the sealed information—which, from Betsy's letters to the Court, shows that she understood the hurt, **BUT** she does not have the same consequence as Lucio.⁴

14. The sealed information is **germane** to any pleading Betsy has put forth for Hon. Cogan, Luico's lawsuit that he paid Betsy and she pleaded those facts in her complaint, Steven Morelli, Esq and Jonthan Tand, Esq. (who were Betsy's co-workers and Lucio's former lawyers), Brian Glass, Esq., Francesco Portelos, Courtenaye Jackson-Chase, Lucio's DoE email, UFT, PERB, ALJ Blassman and so on.⁵

15. Betsy **never** served Doc. No. 50 upon Lucio and Lucio does not have notice of said document by plaintiff.⁶

16. Betsy served Doc. No. 58 on February 5, 2018 on the Court at 5:12 p.m. (according to FedEx, which is first-class postage) and DID NOT serve Lucio on the same date—this **shows bad faith by Betsy**, as part of Betsy's scheme to deprive Lucio of notice with the opportunity to oppose her motion at Doc. No. 50.

17. Betsy mailed Doc. No. 58 on February 8, 2018 (see **Exhibit A**), as part of Betsy's scheme to deprive Lucio with notice and opportunity to oppose her motion at Doc. No. 50.

18. Betsy's scheme harmed Lucio's defense claim for duress and counterclaim for duress because the sealed information is central to his defense claim and counterclaim for duress—Betsy knew this fact and it is the reason to lie to the court, which she should be sanctioned.

19. Betsy's scheme, in addition, harmed Lucio's counterclaim because the sealed information is central to the claim

20. Betsy keeps on referring to Hon. Cogan, which Betsy knows the seal information is the catalyst to Lucio's behavior in his court and she is well aware of this fact, as she planned it that way.

21. Betsy knowingly made false statements in Doc. No. 58 about sealed information not

⁴ Id.

⁵ Id.

⁶ Id.

harming Lucio's argument, which is a material declaration in court—in Lucio's non-lawyer opinion Betsy committed perjury, as this is was part of Betsy's cunning scheme to deprive Lucio of notice and an opportunity to oppose her motions.

22. Unlike Betsy, Lucio does not have unlimited access to pacer without paying for the service because he must pay for each and every search and even login.

23. Unlike Betsy, Lucio does not have the luxury of automated email notification from the court.

24. Unlike Defendant Francesco Portelos, Lucio does not have the luxury of email notification from the court when any party files a document in this matter.

25. Unlike the other lawyers on this case, pacer is part of Lucio's work duties and obligations.

26. Lucio has not had a problem with service from the other defendants via mail and did not have a problem with Betsy non-first-class postage mailed on February 8, 2018

27. In a letter (demanding Lucio to comply with judge's order immediately) dated February 11, 2018, postmarked on February 12, 2018, and Lucio received the said letter on February 14, 2018, Betsy wrote that she mailed the letter to Lucio via first-class postage, which is a lie because it was mailed to Lucio via regular mail. **See Exhibit B**

28. Betsy has shown a pattern of deceitfulness in Your Honor's court, which concerns service of papers on Lucio and of facts that the Court could read on its own.

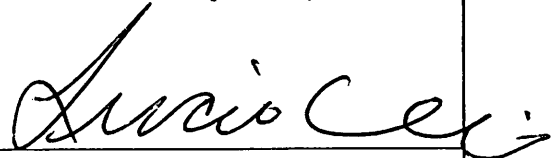
29. According to Betsy's court papers, she earns a living off her blogs and so-called advocacy and attorney Brue Young, Esq. called Your Honor's attention to Betsy's previous lawsuit. **In Betsy's previous lawsuits**, she called judges liars and sued them for defamation—this is documented in court papers and on plaintiff's numerous blogs and this case is an example of Betsy using court proceedings to earn money for her blogs because she writes about the case prior to, during, and after to earn money for her so-called notoriety for blogs and so-called advocacy.

I, Lucio Celli, pro se litigant do swear or declare (*Sui Juris*) under penalty of perjury that this affidavit is true and correct to best of my knowledge. I have served the enclosed **MOTION FOR EXTENTION OF TIME, SERIES of MOTIONS, EXBIHITS, and a LETTER** on each party to the above proceeding or that party's counsel, and on every other person required to be served, by depositing an envelope containing the above documents in the United States mail

properly addressed to each of them and with first-class postage prepaid to Betsy the Plaintiff and by delivery via email to the other named defendants within 3 calendar days.

I, Lucio Celli, declare under penalty of perjury under the laws of the United States of America that the above statement is true and correct. This declaration was made pursuant to 28 U.S. Code § 1746.

Respectfully submitted,



LUCIO CELLI, PRO SE
February 22, 2018

(or for an affidavit)

Sworn to before me this 23rd day of Feb 2018



Notary Public

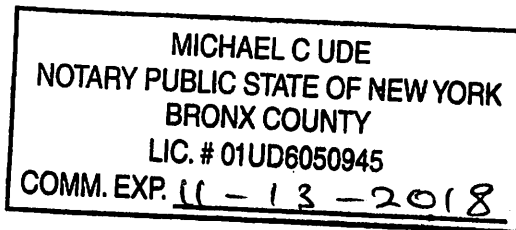


Exhibit A

B. Cember
315 E. 65 St.
NY. NY. 10065

Lucio Celli
2743 Seymour Avenue
Bronx NY 10469

10469-552343

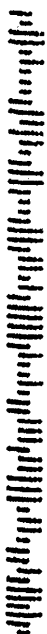
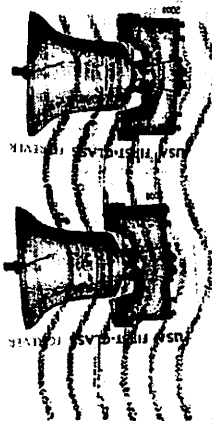


Exhibit B

B. Combie
315 EAST 65 ST. 4C
N.Y. N.Y. 10065

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